

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF GEORGIA**

<b>In re:</b>	)	<b>CHAPTER 12</b>
	)	
<b>Kenneth R. Pierce,</b>	)	<b>CASE NO. 17-60154-EJC</b>
	)	
<b>Debtor.</b>	)	

**OBJECTION TO CONFIRMATION**

COMES NOW, CENLAR BANK FSB (“Cenlar”), by and through its undersigned counsel, and objects to confirmation of Debtor’s [Modified] Chapter 12 Plan [Doc. No. 130], respectfully showing the Court as follows:

1. The Debtor filed his Chapter 12 Case on April 3, 2017.
2. Cenlar holds a claim against the Debtor for approximately \$80,422.66. [Claim No. 17]. The claim is secured by a first priority security deed against approximately 1.22 acres of improved real property located at and more commonly known as 3129 Bay Branch Road, Sylvania, Screven County, Georgia and a residential dwelling located thereon (the “Property”).
3. Upon information and belief, the Debtor has used the Property as collateral to obtain several loans commencing in 1998.
4. On or about May 6, 2016, Debtor refinanced his existing first-priority mortgage with a loan from Lakeview Loan Servicing LLC (hereinafter, “Lakeview”), and granted Lakeview a secured interest in the property by virtue of a security deed in favor of Lakeview (hereinafter, the “Lakeview Security Deed”). The Lakeview Security Deed was originated as, and intended to be, a first priority secured lien against the Property.
5. Cenlar is the current servicer for Lakeview.

6. In his Chapter 12 Plan, as modified on October 20, 2017 [doc. 130], Debtor disputes the security interest represented by the Lakeview Security Deed and states his intent to treat the debt owed to Cenlar as unsecured.

7. Debtor commenced an adversary proceeding against Cenlar on or about July 10, 2017 [*Pierce v. Cenlar FSB*, Adv. Pro. No. 17-060005-EJC (Bankr. S.D. Ga.) (the “Cenlar Adversary Proceeding”)], contending the Lakeview Security Deed is subject to the lien of Bank of Newington, and there is no value in the Debtor’s residence beyond the lien of the Bank of Newington. Debtor further contends the filing of the Lakeview Security Deed is a preference which is voidable pursuant to 11 U.S.C. § 547 and that the Lakeview Security Deed should be canceled.

8. Cenlar restates its objections to the relief sought by Debtor in his Adversary, and further contends that Debtor is not pursuing the relief sought therein in good faith for the benefit of the estate.

9. Cenlar objects to the classification of its debt as unsecured, and denies that the Lakeview Security Deed is subject to the lien of Bank of Newington, and further denies that the recording of the Lakeview Security Deed constitutes a preference under 11 U.S. C. §547.

**I. Valuation – 11 U.S.C. § 1225(a)(5)(B)**

10. The Debtor’s [Modified] Plan proposes to treat Cenlar as an unsecured claim, contending that the current market value of the Property is \$168,600.00, and that the Lakeview Security Deed is junior to the interest of the Bank of Newington.

11. Upon a review of the records made available online by the Screven County Tax Assessor, the Property has a current market value of approximately \$299,900.00.

12. Debtor erroneously contends that Cenlar holds a junior priority lien against the Property, and has understated the value of the Property that secures Cenlar's claim. The value of the collateral is as much as, or greater than, the amount of Cenlar's first-priority claim. As such, Cenlar's claim is fully secured and should not be canceled or valued through Debtor's Plan.

**II. Adequate Protection – 11 U.S.C. 1205(b)**

13. The Debtor's [Modified] Plan proposes to pay Cenlar the sum of \$5,026.42 without interest in two annual installments of \$1,675.47 and a final installment of \$1,675.48, with the first payment beginning February 15, 2018 and continuing on February 15th of each year thereafter. [Doc. No. 130, p. 16].

14. Cenlar asserts a claim in the amount of \$80,422.66.

15. Thus, Debtor's Plan does not afford adequate protection to Cenlar as it does not provide payment of the claim in full.

WHEREFORE, Cenlar FSB respectfully requests that this Court:

- (a) Deny confirmation of Debtor's proposed Chapter 13 Plan and
- (b) Award such other and further relief as the Court deems just and equitable.

Respectfully submitted this 21st day of November, 2017.

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**CERTIFICATE OF SERVICE**

I hereby that, in accordance with ECF Rule 9 (S.D. Ga.) and General Order 2016-2 (Bankr. S.D. Ga.), I have this date electronically filed the within and foregoing [Cenlar Bank, FSB's] ***Objection to Confirmation and [Proposed] Order*** with the Clerk of Court using the CM/ECF system.

The following parties were served with this pleading by electronic notice at the following address(es):

James C. Overstreet, Jr., Trustee  
joverstreet@ecf.epiqsystems.com  
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jlund@klonski.com  
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*Attorneys for Debtor*

The following party(ies) were served by standard first-class U.S. Mail at the following address(es):

Kenneth R. Pierce  
3129 Bab Branch Road  
Sylvania, Georgia 30467

[SIGNATURE ON FOLLOWING PAGE]

This 21st day of November, 2017.

/s/ Monica K. Gilroy  
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